

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

NATIONAL ROOFING INDUSTRY
PENSION PLAN, et al.,

Plaintiffs,

vs.

TAYLOR ROOFING SOLUTIONS, INC.,
et al.,

Defendants.

Case No. 4:18CV1862 JCH

MEMORANDUM AND ORDER

This matter is before the Court on attorney James G. Nowogrocki and the law firm of Heyl, Royster, Voelker & Allen, P.C.'s motions to withdraw as counsel for Defendants. For the following reasons, the motions will be granted.

On June 13, 2019, and July 23, 2019, counsel for Defendants filed motions to withdraw as counsel for Defendants. The motions were unopposed. The Court held defense counsel's motions in abeyance, and imposed a notice of withdrawal period until September 9, 2019. (*See* ECF No. 34). The Court ordered Defendants to obtain substitute counsel no later than September 9, 2019. The Court also stated that defense counsel would be allowed to withdraw on September 10, 2019, or upon the entry of substitute counsel. Because Defendants have not obtained substitute counsel by the deadline imposed, and have received adequate notice that the Court would permit their attorneys to withdraw from representation in this matter, the Court will grant defense counsel's motions to withdraw from representation of Defendants in this matter.

With respect to Defendants Taylor Roofing Solutions, Inc., Taylor Roofing Solutions,

Inc., d/b/a Capitol Roofing Solutions, Capitol Roofing Solutions, LLC, and Beltran Contractors, LLC, corporations are artificial entities that can only act through agents, cannot appear *pro se*, and must be represented by counsel. *Rowland v. California Men's Colony, Unit II Men's Advisory Council*, 506 U.S. 194, 201-02 (1993). "Entry of a default judgment is appropriate where a defendant corporation fails to comply with a court order to obtain counsel." *Woods v. KC Masterpiece*, No. 4:04-CV-936 CAS, slip op. at 1 (E.D. May 14, 2006) (quoting *R. Maganlal & Co. v. M.G. Chem. Co., Inc.*, No. 88 CIV. 4896 MJL THK, 1996 WL 715526, at *2 (S.D. N.Y. Dec. 12, 1996); see *Top Sales, Inc. v. Designer Vans, Inc.*, No. CIV.A. 3:96-CV-0721, 1997 WL 786254, at *2 (N.D. Tex. Dec. 11, 1997) (court grants counsel's motion to withdraw and orders defendant corporation to retain substitute counsel or risk having its pleadings stricken and default judgment entered against it)).

In its Memorandum and Order of July 26, 2019, the Court informed the corporate Defendants that default judgment may be entered against them if Defendants failed to obtain substitute counsel. As stated above, said Defendants have not obtained substitute counsel, and the Court now permits former defense counsel to withdraw. Therefore, the Court will order Plaintiffs to file motions to strike Defendants Taylor Roofing Solutions, Inc., Taylor Roofing Solutions, Inc., d/b/a Capitol Roofing Solutions, Capitol Roofing Solutions, LLC, and Beltran Contractors, LLC's pleadings, for Clerk's entry of default and, if appropriate, for default judgment, within thirty days of the date of this Order.

With respect to Defendant Gerrit Yank, the Court warned in its July 26, 2019, Order that should he fail to obtain substitute counsel within the time allowed, he may be required to proceed to trial *pro se*, that is, without the assistance of counsel. Defendant Yank has not obtained substitute counsel, and so he now must proceed without the assistance of counsel in this matter.

Accordingly,

IT IS HEREBY ORDERED that attorney James G. Nowogrocki and the law firm of Heyl, Royster, Voelker & Allen, P.C.'s motions to withdraw as counsel for Defendants (ECF Nos. 27, 32) are **GRANTED**.

IT IS FURTHER ORDERED that attorney James G. Nowogrocki and the law firm of Heyl, Royster, Voelker & Allen, P.C. are granted leave to withdraw from the representation of Defendants Taylor Roofing Solutions, Inc., Taylor Roofing Solutions, Inc., d/b/a Capitol Roofing Solutions, Capitol Roofing Solutions, LLC, Beltran Contractors, LLC, and Gerrit Yank in this matter.

IT IS FURTHER ORDERED that within thirty (30) days of this Memorandum and Order, Plaintiffs shall file separate motions to strike the corporate Defendants' pleadings, for Clerk's entry of default pursuant to Federal Rule of Civil Procedure 55(a) and, if appropriate, for default judgment pursuant to Federal Rule of Civil Procedure 55(b), along with all necessary supporting documentation and proposed order(s) for the Court's consideration.

IT IS FURTHER ORDERED that Defendant Gerrit Yank is now proceeding *pro se* in this matter, that is, without the assistance of counsel.

IT IS FURTHER ORDERED that the Clerk of Court shall mail a copy of this Memorandum and Order to Defendants via email and U.S. Mail, as follows: Gerrit Yank, 2425 Amann Drive, Belleville, Illinois, 62220, email: gyank@yankgroup.com, and Beltran Contractors LLC at 235 Walnut Street, New Memphis, Illinois, 62266.

Dated this 10th Day of September, 2019.

/s/ Jean C. Hamilton
UNITED STATES DISTRICT JUDGE